



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/438,205	11/12/1999	STEVEN J. SISTARE	5181-90700	9017

58467 7590 04/05/2010
MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

EXAMINER

NELSON, CHRIS A

ART UNIT	PAPER NUMBER
----------	--------------

2193

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

04/05/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent_docketing@intprop.com
ptomhkg@gmail.com

Office Action Summary	Application No. 09/438,205	Applicant(s) SISTARE ET AL.	
	Examiner CHRIS NELSON	Art Unit 2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/10/2002</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. **Claims 1** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claim 1 defines a debugger. However, while the preamble implies an apparatus, which would typically be indicative of a "machine", the body of the claim lacks definite structure indicative of a physical apparatus. Therefore, the claim as a whole appears to directed to software per se.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2193

4. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Bates et al (US 6,378,125 B1, hereinafter, Bates).

5. As per claim 1, Bates discloses a debugger for use in assisting in the debugging of a program in a computer system (Column 2, lines 10-15), the debugger comprising:

a. A thread identifier configured to, in response to a breakpoint event in connection with a breakpoint in a thread which has caused an operating system to stop execution of all threads (Column 6, lines 44-46) in the program, identify one of said threads which contained the breakpoint (Column 3, lines 21-27; column 5, lines 26-38; claims 1 and 4)

b. A thread execution controller configured to, after identifying the one of said threads, enable others of said threads to continue execution (Column 6, lines 53-58)

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. You (Patent 6,158,045) is cited in reference to the ability to stop all threads of a program, identify a thread that hits a breakpoint, and restart threads (See at least column 52, lines 42-50; column 42, lines 14-23; column 43, lines 9-14; column 65, lines 3-10; column 83, lines 42-50; column 84, and lines 10-14)

Art Unit: 2193

- b. Schwiegelshohn (Patent 5,687,375) is cited in reference to various methods of continuing execution of threads that were stopped by breakpoints (Column 3, lines 1-8, 35-53; and column 4, line 31 through column 5 line 20)
- c. Meier (Patent 5,781,778) is cited in reference to stopping all threads of a program and identifying the thread which caused the breakpoint (Column 4, lines 20-37; and column 5, line 53 through column 6, line 4)
- d. Coplien (Patent 5,093,914) is cited in reference to stopping all processes and identifying the breakpoint process (Column 1, line 59 through column 2, line 20)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRIS NELSON whose telephone number is (571)270-7256. The examiner can normally be reached on Monday to Thursday, 9AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis Bullock can be reached on (571)272-3759. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2193

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHRIS NELSON/
Examiner, Art Unit 2193

/Lewis A. Bullock, Jr./
Supervisory Patent Examiner, Art Unit 2193